

## **BILL ANALYSIS**

H.B. 935  
By: Casteel  
Judicial Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current law requires that an arrested person be taken before a magistrate within 48 hours of that person's arrest, and the Code of Criminal Procedure Article 2.09 defines a broad class of persons who are "magistrates" within the meaning of the Code. Population growth in Comal County has increased the workload of these persons, leading to the need for additional magistrates in the county.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 935 amends the Government Code to add Subchapter W relating to magistrates in Comal County. The bill provides that the Commissioners Court of Comal County may authorize the judges of the district and statutory county courts in Comal County to appoint one or more part-time or full-time magistrates. The judges of the district and statutory county courts in Comal County may, by a unanimous vote, appoint magistrates as authorized by the Commissioners Court.

The bill also sets forth the qualifications and the compensation for the magistrate(s), provides that they have the same immunity as a district judge, and sets forth procedures for their termination.

The bill also provides that the judges of the district and statutory county courts shall establish standing orders for the magistrates and the parties appearing before the magistrates, and lists specific actions that the magistrate is authorized to do. These include setting, adjusting and revoking bond, conducting examining trials, determining whether a defendant is indigent and appointing counsel for an indigent defendant, issuing search and arrest warrants, issuing emergency protective orders, ordering emergency medical commitments and conducting initial juvenile detention hearings.

The bill also allows a magistrate to exercise concurrent criminal jurisdiction with a justice of the peace under certain circumstances, except for a trial on the merits following a plea of not guilty.

The bill also provides that the Commissioners Court must provide the magistrate with sufficient office space, personnel and equipment required to perform the magistrate's essential functions.

### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect on September 1, 2003.

